



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,287	09/30/2003	Jeyhan Karaoguz	14794US02	5434

7590 11/19/2009
Christopher C Winslade
McAndrews Held & Malloy Ltd
500 Wes Madison St
34th Floor
Chicago, IL 60661

EXAMINER

RYAN, PATRICK A

ART UNIT	PAPER NUMBER
----------	--------------

2427

MAIL DATE	DELIVERY MODE
-----------	---------------

11/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,287
Filing Date: September 30, 2003
Appellant(s): KARAOGUZ ET AL.

Ognyan I. Beremski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 28, 2009 appealing from the Office action mailed May 5, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Copending Application Serial Numbers (10/675467) "Method and System for Personal Channel Programming in a Media Exchange Network" and (10/675057) "Method and System for Mixing Broadcast and Stored Media in a Media Exchange Network" each contain subject matter similar to the instant application and are currently before the Board of Patent Appeals and Interferences.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0054752	Wood et al.	05-2002
2002/0104099	Novak	08-2002
7,174,512	Martin et al.	02-2007

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims **1-5, 8-15, 18-25, and 28-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Novak (US Patent Application Publication 2002/0104099)** in view of **Wood et al. (US Patent Application Publication 2002/0054752 A1)** hereinafter "Wood".

With respect to Claim **1**, the claimed "*locating media stored locally at least at a first geographic location in the communication network; organizing, at said first geographic location, said located media into channels*" is met by the Novak reference

Art Unit: 2427

that teaches an uploading individual at upload source 122 organizing media by way of User Interface 702 of Fig. 7 for presentation within EPG 153 of Fig. 9, which is viewable by way of a set top box device (*Figs. 1, 4, 7, 9, and 11; paragraphs 0010, 0026, 0039, 0041, 0056-0060, 0063, and 0078-0086*).

The claimed “*transparently transferring from said first geographic location, at least a portion of said organized channels to at least a second geographic location within the communication network*” is met by the Novak reference that teaches client terminal of end user at STB 152 receiving media files associated with the ‘synthetic’ channel when it is selected for viewing- whereby a ‘synthetic’ channel is added to an user’s EPG 153 at a 2nd location, via an emailed token or other electronic file, such as a Java applet that is automatically downloaded and triggers an update of EPG 153 (*Figs. 1, 2, 4, 9, 11; paragraphs 0041, 0058, 0059, 0080, 0085, & 0086*).

However, Novak does not explicitly disclose organizing at least a portion of television broadcast media into channels.

In a similar field of invention, Wood teaches a method and apparatus for allowing a user to control recoding and storage of television signals into personal channels (Abstract). Wood further discloses that storage of shows may be organized into personal channels in order to facilitate later playback (Abstract, Paragraphs [0058-0061]; with further reference to the interface of Fig. 10).

Both Novak and Wood demonstrate similar techniques for organizing locally stored media content into personal program channels. Novak discloses the

Art Unit: 2427

organization of local media by way of Joe's TV Channel using the interface of Figure 7 and Wood discloses the organization of television broadcast media by way of personal channels such as that of Fig. 10. One of ordinary skill in the art at the time of the invention would have recognized that the similar techniques of Novak and Wood are usable together because each demonstrates the organization of locally stored media to be presented within an electronic program guide. One of ordinary skill would have been motivated to provide an individual the ability to organize television broadcast media and local media within the same channel guide so that a user has the ability to consolidate a variety of media programs into a single user interface.

With respect to Claim **2**, the claimed “*displaying said organized channels in at least one constructed display*” is met by Novak teaching the use of a display 154 at a second location 152 for displaying a synthetic channel 804 listed on an EPG 802 (*Figs. 1 & 8; paragraphs 0026 & 0071*).

With respect to Claim **3**, the claimed “*constructed display is at least one of a media guide, device guide and a channel guide*” is met by Novak teaching the use of an EPG 802 in displaying a ‘synthetic’ channel listing (*Fig.8; paragraph 0071*).

With respect to Claim **4**, the claimed “*constructed display is formatted as a graphical user interface*” is met by Novak teaching an EPG 802 that is configured to access media displayed in a ‘synthetic’ channel listing once it has been selected (*Fig.8; paragraph 0072*).

With respect to Claim **5**, the claimed “*constructed display is displayed at one or both of said first geographic location and/or said geographic second location*” is met by Novak that teaches the use of a display 154 at a second location 152 (*Fig.1; paragraph 0038*).

With respect to Claim **8**, the claimed “*transparently transferring media corresponding to at least said second geographic location*” is met by Novak teaching media being sent to a 2nd location 152 once a ‘synthetic’ channel is selected on the EPG 153 (*Fig.1; paragraphs 0058, 0059, 0080, & 0085*).

With respect to Claim **9**, the claimed “*updating an existing constructed display at said second geographic location to reflect said transparently transferred at least a portion of said organized channels*” is met by Novak teaching an EPG 153 being updated with media programs on a ‘synthetic’ channel created by an uploading source 122 (*Fig.1; paragraphs 0041, 0058, 0059, 0080, & 0083*).

With respect to Claim **10**, the claimed “*authorizing said transparent transfer of said at least a portion of said organized channels to at least said second geographic location*” is met by Novak teaching the use of a ‘token’ to subscribe a user at 2nd location 152 in order for the receipt of ‘synthetic’ channel listing and ultimately allowing the transfer of media to the 2nd location or by a user at a 2nd location navigating to a website where a piece of software can be downloaded and an update of EPG 153 can be triggered (*Figs. 4, 11, paragraphs 0058 & 0080*).

Art Unit: 2427

Claim **11** is met as previously discussed with respect to Claim **1**.

Claim **12** is met as previously discussed with respect to Claim **2**.

Claim **13** is met as previously discussed with respect to Claim **3**.

Claim **14** is met as previously discussed with respect to Claim **4**.

Claim **15** is met as previously discussed with respect to Claim **5**.

Claim **18** is met as previously discussed with respect to Claim **8**.

Claim **19** is met as previously discussed with respect to Claim **9**.

Claim **20** is met as previously discussed with respect to Claim **10**.

Claim **21** is met as previously discussed with respect to Claim **1**. In addition, Novak teaches that the upload source 122 can consist of a set top box or a PC uploading media files to a server (*Fig.1; paragraph 0055 & 0056*).

Claim **22** is met as previously discussed with respect to Claim **2**.

Claim **23** is met as previously discussed with respect to Claim **3**.

Claim **24** is met as previously discussed with respect to Claim **4**.

Claim **25** is met as previously discussed with respect to Claim **5**.

Claim **28** is met as previously discussed with respect to Claim **8**.

Claim **29** is met as previously discussed with respect to Claim **9**.

Claim **30** is met as previously discussed with respect to Claim **10**.

With respect to Claim **31**, the claimed “at least one processor is at least one of a media processing system processor, a media management system processor, a computer processor, a media exchange software processor and a media peripheral

Art Unit: 2427

processor” is met Novak teaching an upload source 122 being a set top box or a PC (Figs.1 & 2; paragraph 0039).

Claims **6, 7, 16, 17, 26, and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Novak and Wood in further view of **Martin et al (US Patent 7,174,512)**.

With respect to Claim **6**, the claimed “*presenting representations of locally stored media at said second geographic location and representations of said transparently transferred media in a single constructed display*” is met in part by Novak teaching a system that allows an individual to upload media files through a server to an end user, allows scheduling the order in which they are presented to a 2nd user in a ‘synthetic’ channel listing included in an EPG, and transferring the media files listed in the ‘synthetic’ channel listing upon its selection by the 2nd location as discussed in Claim **5** above.

However, Novak does not teach that the locally stored media at the 2nd location is represented in addition to the ‘transparently transferred media’. Martin et al. teaches a system that displays broadcast channels and locally or remotely stored content on one common display (Fig.5c; col.1, lines 56-59; col.14, lines 22-25 & lines 44-47).

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate the teaching of Martin et al. with those of Novak, because both Martin et al. and Novak teach displaying available media content to an end user. A person with ordinary skill in the art would have been motivated to make the modification to Novak in order to allow the additional benefit of displaying local media

Art Unit: 2427

available for viewing by a user of the system, thereby notifying them of all the media content that is available to them.

With respect to Claim 7, the claimed “*integrating representations of said television broadcast media in said presented single constructed display*” is met by Novak teaching a EPG 153 that contains both a ‘synthetic’ channel listing 908 created by a 1st user 122 and broadcast channel listings 902, containing local and national television channels (*Fig. 9; paragraph 0074*).

Claim 16 is met as previously discussed with respect to Claim 6.

Claim 17 is met as previously discussed with respect to Claim 7.

Claim 26 is met as previously discussed with respect to Claim 6. In addition, both Novak and Martin et al. teach the use of set top boxes in the displaying of available media. Specifically, Novak discloses set top box 152 (*Fig. 1*) and Martin et al. discloses set top box 1140 (*Fig. 2 & 4B*).

Claim 27 is met as previously discussed with respect to Claim 7.

(10) Response to Argument

The Examiner respectfully disagrees that the rejection should be reversed. Only those arguments having been raised are being considered and addressed in the Examiner's Answer. Any further arguments regarding other elements or limitations not specifically argued or any other reasoning regarding deficiencies in a prima facie case of obviousness that the Appellant could have made are considered by the Examiner as having been conceded by the Appellant for the basis of the decision of this appeal. They

Art Unit: 2427

are not being addressed by the Examiner for the Board's consideration. Should the panel find that the Examiner's position/arguments or any aspect of the rejection is not sufficiently clear or a particular issue is of need of further explanation, it is respectfully requested that the case be remanded to the Examiner for further explanation prior to the rendering of a decision.¹

Appellant presents that the combination of Novak and Wood does not teach the Claim 1, 11, and 21 limitation of "transparently transferring from said first location, at least a portion of said organized channels to at least a second geographic location within the communication network" because "at step 406 [of Novak], a token or electronic file is sent to the end user to subscribe the end user's terminal (set top box 152) to the synthetic channel". Appellant cites Novak Paragraph [0058] "discloses that the individual (who uploads the media to server or web site 124) emails the token or other electronic file to the end user" and states that "[o]bviously, the user will be aware of such emailed token" (Brief² Page 6). Appellant additionally states that "even though Novak at paragraph 0080 discloses that a Java applet or Javascript is automatically downloaded, the end user still has to manually navigate to the web site 124, and upon reaching the web site 124, the automatic applet download takes place" (Brief Pages 6-7).

In addressing Claims 1, 11, and 21, the Examiner has presented that Novak demonstrates (Paragraphs [0058,0080]) two examples of "transparently transferring" a

¹ See 37 CFR 41.50(a)(1) and MPEP 1211.

² Appeal Brief received September 28, 2009

Art Unit: 2427

media channel: (1) by way of a “token” that is sent by e-mail to the end user and (2) by way of a software application such a Java applet. In regards to the “token,” Novak discloses that “the token may trigger an application (or the token itself can be an application) that causes the EPG 153 and/or the set top box 152 to add the synthetic channel to the program listings of the EPG 153 or to monitor the web site 124 for media program information” (Paragraph [0058]) and “[w]hen installed or launched, the subscription token updates the EPG 153 to add the synthetic channel as an available channel...” (Paragraph [0080]). In regards to the “Java applet,” Novak discloses that “the end user can separately receive software (in a diskette sent via postal mail, as an example) and then run that software to update the EPG 153 or to otherwise subscribe to the synthetic channel” (Paragraph [0058]) and “[u]pon reaching the web site 124, a piece of software, such as a Java applet or Javascript, is automatically downloaded from the web site 124 to the set top box 152, and triggers an update of the EPG 153 stored in the set top box 152 to add synthetic channel listings” (Paragraph [0080]). The Examiner has additionally cited Paragraphs [0041, 0059, 0085, and 0086] that describe the process of transmitting and receiving the synthetic channel once the end user has subscribed using the token or Java software.

Both the Examiner and Appellant seem to agree that the “transparently transferring” limitation refers relative to the end user, in other words the end user does not see or is not aware of mechanisms involved in the transfer of information.

Appellant’s arguments center around the idea that the end user in Novak’s system is aware of the information being transmitted because, in each example cited by the

Art Unit: 2427

Examiner, user interaction is disclosed as part of the process for receiving the synthetic channel and therefore the transferring is not performed transparently. However, it is the Examiner's position that, in view of the specification and as claimed, user interaction is not precluded from an act of transparently transferring.

In summarizing the subject matter of Claims 1, 11, and 21, Appellant provides Page 4 Lines 6-8 and Page 5 Lines 9-11 of the instant application (Brief Page 3 Footnote 4; Page 4 Footnotes 8 and 11). These sections state:

Accordingly, at least a portion of the organized channels may be transparently transferred to at least a second location within the communication network. (Page 4 Lines 6-8)

Accordingly, at least a portion of the organized channels may be transparently transferred by the processor to at least a second location within the communication network. (Page 5 Lines 9-11)

The Examiner submits that these sections essentially repeat the claim language and provide little guidance as to the intended scope of the claimed "transparently transferring". The Examiner additionally submits Paragraph [68] on Page 20 of the instant application as an exemplary passage demonstrating the intended meaning of "transparently transferring". This paragraph states:

An Internet-based media exchange network infrastructure 413 may provide connectivity for the personal computer 402, the media processing systems 414 and the media processing 415 located at "Brother's House." Accordingly, the Internet-based media exchange network infrastructure 413 may be adapted to facilitate exchange of media among the media processing systems 414, 415 and the personal computer 402. In this regard, the Internet-based media exchange network infrastructure 413 may facilitate the transparent transfer of media from a first location such as the "Brother's House" 409 to a second location such as the "Mom's House" 412. Mom may authorize brother to transparently transfer media to "Mom's House" 412 from "Brother's House" 409.

The Examiner also submits Page 15 Lines 23-25 (Paragraph [48]), which state: "[a]n authorization may be received from the second location 110 prior to transparently transferring the selected channels to at least the second location 110".

In view of Appellant's Specification, it is the Examiner's position that the second user (i.e. "Mom") is aware of the first user's (i.e. the "Brother's") intention of transferring media because "Mom may authorize brother to transparently transfer media..."

Appellant's specification demonstrates that the act of transparently transferring can involve user awareness and user interaction prior to the transmission of information.

The Examiner therefore submits that Novak's disclosure of end user interaction prior to the transfer of a synthetic channel (i.e. opening an email or navigating to a website) is within the scope of the claimed "transparently transferring" as described by Appellant's Specification.

Additionally, it is the Examiner's position that, as claimed, the act of "transparently transferring" also includes the act of transmitting the information from a first location to a second location. In addressing this aspect, the Examiner has cited Novak Paragraphs [0059, 0085, and 0086] that described the process of transmitting a synthetic channel to the end user after the user has subscribed to the channel. As presented above, Novak discloses that "[w]hen installed or launched, the subscription token updates the EPG 153 to add the synthetic channel as an available channel" or the Java software "triggers an update of the EPG 153 stored in the set top box 152 to add synthetic channel listings" (Paragraph [0080]). Novak further discloses that:

In one embodiment of the invention, the media programs are transmitted on the synthetic channel based on the program settings set by the upload source 122, and independently of any action by the end user. Thus, the media programs may be transmitted according to schedule regardless of whether the end user has actually tuned to the synthetic channel. (Paragraph [0085])

Thus, as evident by the various embodiments described herein, the Internet "browsing" that an end user typically has to perform to view content from the Internet is replaced in an embodiment of the invention by placing or hiding "browsing" functions in the EPG 153. In this manner, a simpler and more familiar technique can be provided to end users to view Internet content, by simply tuning to a particular television channel. (Paragraph [0086])

It is the Examiner's position that, during Novak's process of transmitting and receiving the synthetic channel, there are instances when the end user is unaware of mechanisms used to provide the content, such as "program settings" established by the Upload Source and underlying "browsing" functions operating at the end user location. The Examiner particularly notes Novak's Paragraph [0086] implies a complexity in accessing and viewing Internet media, which Novak's invention simplifies by providing Internet media using "a simpler and more familiar technique" by way of a conventional television channel. It is the Examiner's position that by "hiding 'browsing' functions in the EPG 153" the complexities of viewing Internet media become transparent to the end user.

Therefore, the Examiner submits that the Claim 1, 11, and 21 limitation of "transparently transferring from said first location, at least a portion of said organized channels to at least a second geographic location within the communication network" has been properly addressed by the combination of Novak and Wood.

Regarding the Rejection of Dependent Claims 2-5, 12-15, and 22-25, no additional arguments are presented over and above those previously addressed. Accordingly, the rejection is believed to be proper for the previously addressed reasoning.

Regarding the Rejection of Dependent Claims 8-10, 18-20, and 28-30, no additional arguments are presented over and above those previously addressed.

Art Unit: 2427

Accordingly, the rejection is believed to be proper for the previously addressed reasoning.

Regarding the Rejection of Dependent Claim 31, no additional arguments are presented over and above those previously addressed. Accordingly, the rejection is believed to be proper for the previously addressed reasoning.

Regarding the Rejection of Dependent Claims 6-7, 16-17, and 26-27, no additional arguments are presented over and above those previously addressed. Accordingly, the rejection is believed to be proper for the previously addressed reasoning.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 2427

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Patrick A Ryan/
Examiner, Art Unit 2427

Conferees:

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421